



The Interim Policy Regarding Tree Preservation & Planting in and Around Stormwater Management Ponds

**Adopted by Fairfax County's Board of Supervisors
March 8, 1999**

PROPOSED INTERIM POLICY REGARDING TREE PRESERVATION AND PLANTING IN AND AROUND STORMWATER MANAGEMENT PONDS

**Department of Public Works and Environmental Services
Fairfax County, Virginia**

PURPOSE:

It is the intent of this interim policy (the “Interim Policy”) to encourage tree preservation and replanting in areas in and around stormwater management ponds. Subject to County approval, this Interim Policy may be used by property owners (the “Owners”) in the design of new ponds, by owners of existing privately maintained ponds to modify their maintenance routines and by private land owners, including homeowners associations, for tree planting enhancements in and around existing publicly maintained stormwater management ponds. This Interim Policy will be in effect until a more comprehensive stormwater management policy addressing tree preservation and planting in and around stormwater management ponds is adopted and incorporated into the Public Facilities Manual.

INTERIM POLICY OVERVIEW:

The allowable tree preservation and/or planting areas provided by this Interim Policy, along with the tree clear areas mandated by the Public Facilities Manual and existing Board policy, are shown on the attached sketches of typical stormwater management pond designs for extended dry ponds (Attachment #1) and wet ponds (Attachment #2). Property owners who wish to undertake tree preservation and/or planting as permitted by this Interim Policy shall submit a Planting Application & Authorization Request form (the “Application”) and a sketch of the pond area of sufficient size to clearly show the location and types of trees or other vegetation to be planted or preserved.

In dry ponds which contain an engineered forebay specifically designed for sediment trapping and where full access for maintenance of the pond facilities has been provided, planting may be allowed in a portion of the Best Management Practices (“BMP”) pool subject to review and approval by the Department of Public Works and Environmental Services (“DPWES”). Prior plan approval by DPWES does not preclude the owner from taking advantage of this policy. Such planting may be allowed subject to review and approval by DPWES. In ponds designated as a Regional Stormwater Management Facility by DPWES, the BMP pool and flood storage area may be left in a natural vegetated state, including existing trees and shrubs.

APPLICATION AND MANAGEMENT PROCEDURES:

New Ponds: Owners preparing plans for development which include stormwater management facilities, whether publicly or privately maintained, prepare an Application for such tree preservation and planting. Review and approval of tree preservation and/or replanting plans for not yet approved or constructed stormwater management ponds will be in conjunction with the normal County plan review and approval process.

The approved Application and attachments depicting the areas and kinds of vegetation to be planted or preserved will be placed on the development and site grading plans.

Existing Ponds: In addition to any easement previously granted by the property owner to the County for the construction, operation and maintenance of the stormwater management facility or any previously executed private maintenance agreement, property owners of land on which existing stormwater management facilities are located may submit an Application for planting or preserving trees or other planting additions. Such planting plans for existing stormwater management ponds will be reviewed and approved by DPWES. The approved Application and its attachments which illustrate the areas and types of vegetation to be planted or preserved, for all ponds, will be filed within the DPWES.

TERMS AND CONDITIONS OF PLANTING UNDER THE INTERIM POLICY:

Approval by the County of an Application regarding a publicly maintained facility located within a County easement will create an agreement granting the applicant property owner authorization for certain uses within the County's easement subject to the terms and conditions contained herein. In the case of a privately maintained facility, approval by the County of an Application will create an additional agreement with the Owner regarding the acceptable maintenance of the facility incorporating the terms and conditions of this Interim Policy. These terms and conditions are in addition to the terms of any other private maintenance agreement between the Owner and the County that applies to the facility.

In consideration of the mutual desires of the County and the Owner, as applicant, to provide for tree preservation and planting in and around certain portions of certain stormwater management facilities, the submission of the Application by the Owner, approval of the Application by DPWES on behalf of the Board of Supervisors (the "County") for the work proposed to be done thereunder, the Owner, and the Owner's heirs, successors and assigns, and the County shall be deemed to agree as follows:

1. Approval of the Application by the County shall allow for the planting of trees and/or shrubs in the planting area only as shown on the planting plan attached to and approved with the Application (the "Planting Area"), subject to the conditions noted on the sketches attached to and approved with the Application, and subject to the terms and conditions of this Interim Policy.
2. Trees and/or shrubs or other plantings planted in the Planting Area shall be planted by the Owner at Owner's sole risk, cost and expense.
3. The maintenance of all plantings by the Owner is the sole responsibility of the Owner. The County will not mow the area designated on the planting plan as the Planting Area, except for any areas the County may deem, in its sole discretion, are needed for its construction, operation and maintenance of its facilities.

4. The Owner shall delineate such Planting Area with delineator posts installed in conformance with the approved planting plan. The delineator posts shall be provided by the County and installed and maintained by the Owner .
5. Should damage to the plantings installed by the Owner in the County's easement occur in the course of routine, emergency or any other construction, operation or maintenance activity by the County, the County has no obligation to replace or restore the damaged plantings or otherwise indemnify the Owner.
6. The County reserves the right to remove, without replacement or restoration, any plantings which the County deems, in its sole discretion, to interfere with the construction, operation and maintenance of the stormwater management facility.
7. Approval of the Application shall not modify or otherwise affect any of the terms and conditions of any agreement entered into with or by the County for the private maintenance of any stormwater management facility or of any easement granted to the County for the public or private maintenance of any stormwater facility or of any other easement granted the County relating to the land affected by the Application, including its approved planting plan. All the terms and conditions, including the rights, privileges and obligations of the County, pursuant to all such easements or agreements, as the case may be, shall arise and/or continue in full force and effect.
8. In the event, the Owner is notified by the County of a failure to comply with the provisions of the approved Application and its provisions, including the terms and conditions of this Interim Policy, and fails to comply within the time specified in the notice, then, in addition to any other remedies at law or in equity available to the County, the County may, in its sole discretion, revoke the approval granted pursuant to the Application.
9. The Owner will notify Miss Utility before undertaking any digging pursuant to the planting plan and is solely responsible to ensure that the work done by or for the Owner does not conflict with or damage existing utility installations.

This Interim Policy is not meant to conflict with guidelines established by any other agency. The Interim Policy is not applicable to state-regulated dams or impoundments nor does it apply to other types of stormwater management practices such as rain gardens, rooftop detention or underground storage facilities.

**PROCEDURE TO OBTAIN
DEPARTMENT OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
AUTHORIZATION TO PLANT TREES
IN AND AROUND STORMWATER MANAGEMENT PONDS**

The Department of Public Works and Environmental Services (DPWES) encourages and will permit tree planting in and around stormwater management ponds consistent with the interim policy established for such preservation and/or planting and consistent with appropriate consideration for, among other things, dam safety, long-term survivability of plantings, and facility construction, operation and maintenance issues. It is widely recognized that the prohibition of trees on dam embankments and emergency spillways is necessary because trees in those areas can pose significant dam failure and blockage risks.

In order to protect slopes from erosion, absorb and mitigate runoff, as well as to insure long-term survivability of the trees given various degrees of water inundation, the selection of appropriate species is important and must be emphasized. Also, a review of the proposed tree selection and planting locations is necessary to insure that the plantings will not inhibit maintenance of the facility.

To accomplish these goals, the following guidelines and procedures are set forth:

1. The property owner or designee should first contact the DPWES, Maintenance and Stormwater Management Division (MSMD) for guidance, Planting Application & Authorization Request forms, conditions and submission requirements, at:

Maintenance and Stormwater Management Division, DPWES
10635 West Drive
Fairfax, Virginia 22030
(703) 934-2860

2. In general, potentially permissible tree and planting areas are shown on Attachment #1-- Typical Extended Dry Pond, and Attachment #2--Typical Wet Pond. Note that these are generic pond sketches; existing ponds may vary in design, especially as to actual location of the structural and drainage elements.
3. Plants to be used can be selected from the two sources listed below (Attachment #3):
 - 1) The Chesapeake Bay Local Assistance Manual which provides a list of plants and trees, along with their habitat and soil preferences.
 - 2) Native Plants for Conservation, Restoration and Landscaping: Master List, 1997; a publication of the Virginia Native Plant Society, which provides a listing of native plants and trees, along with their light and moisture preferences.

Using appropriate plant species from these two lists will ensure that the plants and trees shown on proposed planting plans are not only the “right plant in the right place” but also will ensure that an emphasis is placed on the use of native plants. Contact the Urban Forestry Branch with any questions, at:

Urban Forestry Branch, Office of Site Development Services (OSDS), DPWES
12055 Government Center Parkway, Suite 518
Fairfax, Virginia 22035
Telephone: (703) 324-1770

4. In order to process a planting application, two copies of the Planting Application and Authorization Request form with attachments, including three copies of the proposed tree and planting layout and species plan on a sketch that clearly show the type and location of the species and a copy of the Interim Policy are to be submitted to DPWES, MSMD for review.

Copies of “as built” drawings and the original design drawings used to construct the stormwater management pond which may be helpful in preparing your sketch plan should be available to be printed from microfilm at:

Plan Control Section, OSDS, DPWES
12055 Government Center Parkway, Suite 111
Fairfax, Virginia 22035
Telephone: (703) 324-1548

All microfilm copy requests must be received by 4:00 p.m. for same day service. Staff is available to assist citizens in their search for the most appropriate plan sheets at Plan Control. A nominal fee will be charged for copies.

Upon approval, one approved Application copy will be returned to the applicant after the review and processing is completed.

5. For publicly maintained ponds, delineator posts with signs will be provided to the owner by DPWES, Maintenance and Stormwater Management Division. The owner will be required to promptly install and to maintain the delineator posts and signs once the Application is approved. These delineator posts will provide a demarcation line to prevent the County from inadvertently mowing or removing the trees within the tree planting areas.

LIST OF ATTACHMENTS

#1 - Sketch entitled **TYPICAL EXTENDED DRY POND** (available to be viewed and/or printed separately).

#2 - Sketch entitled **TYPICAL WET POND** (available to be viewed and/or printed separately).

#3 - The following references are recommended as a guide to select suitable plant species:

1. **Native Plants for Conservation, Restoration, and Landscaping: Master List 1997, Produced by: Virginia Department of Conservation and Recreation and Virginia Native Plant Society.**
2. **The Chesapeake Bay Local Assistance Manual, Chapter IV, Performance Criteria, Appendix D.**

The above documents can also be obtained from:

- Maintenance and Stormwater Management Division, (703) 934-2860
- Urban Forestry Branch, (703) 324-1770